

# United States District Court, Northern District of Illinois

8

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 9303	DATE	1/2/2002
CASE TITLE	Evelyn Saban vs. State of Illinois		

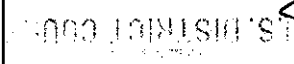

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

Memorandum Opinion an Order
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## DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [ use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> General Rule 21 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Opinion and Order. Plaintiff's petition is denied as moot. She is hereby notified of our intent to dismiss and has twenty-one (21) days to respond, that is, until January 23, 2002.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

No notices required, advised in open court.	<div style="text-align: center;">  </div>	number of notices	<div style="text-align: center;">  </div>
No notices required.		JAN 03 2002	
Notices mailed by judge's staff.		date docketed	
Notified counsel by telephone.		docketing deputy initials	
<input checked="" type="checkbox"/> Docketing to mail notices.		date mailed notice	
Mail AO 450 form.		mailing deputy initials	
Copy to judge/magistrate judge.			
WAH	courtroom deputy's initials	Date/time received in central Clerk's Office	

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

EVELYN SABAN,

Plaintiff,

vs.

STATE OF ILLINOIS,

Defendant.

No. 01 C 9303

DOCKETED  
JAN 3 2002

MEMORANDUM OPINION AND ORDER

Plaintiff Evelyn Saban brings this action against the State of Illinois. Along with her complaint plaintiff has filed an application to proceed *in forma pauperis*. For reasons set forth below, plaintiff's petition is denied as moot and we dismiss her complaint *sua sponte*.

Since the filing of her application to proceed *in forma pauperis*, plaintiff has paid the court costs. As a result, her petition is denied as moot. We recognize fatal flaws in her complaint, however, and proceed *sua sponte* in dismissing her claims.

Plaintiff's complaint alleges that she has been forcibly injected with psychotropic drugs while in custody at a state mental hospital, in violation of her religious beliefs. The remedy she requests is that her state court "unfit to stand trial mental illness case" be thrown out so that the criminal case against her may proceed. The complaint fails, however, because of the defendant named and the remedy sought.

While plaintiff does not offer any legal authority to support her claim, she is a *pro se* plaintiff and accordingly we construe her complaint liberally. Henderson v. Sheahan, 196 F.3d 839, 845 (7th Cir. 1999). The allegations appear to state a first amendment violation, and we

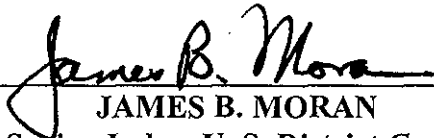
will treat the complaint as being brought pursuant to 42 U.S.C. §1983. A state is not a suable person within the meaning of §1983. Will v. Michigan Dept. of State Police, 491 U.S. 58 (1989). The defendant in this case is immune from suit.

The complaint is also flawed in the relief sought. It is not within this court's power to intervene in a state action in the way proposed by the plaintiff. Federal courts cannot intervene in an ongoing state criminal proceeding. Younger v. Harris, 401 U.S. 37 (1971). Federal courts also cannot review a state adjudication. District of Columbia Court of Appeals v. Feldman 460 U.S. 462 (1983).

*Sua sponte* dismissals are appropriate where sufficient basis for the court's action is apparent from the plaintiff's pleading. Apostol v. Laundau, 957 F.2d 339, 343 (7th Cir. 1992). As is required when dismissing claims *sua sponte*, we hereby notify plaintiff of our intent to dismiss the complaint and provide her with an opportunity to respond. See Stewart Title Guaranty Co. v. Cadle Co., 74 F.3d 835, 836 (7th Cir. 1996).

For the reasons stated above, plaintiff's petition is denied as moot. She is hereby notified of our intent to dismiss and has twenty-one days to respond, that is, until January 23, 2002.

Jan. 2, 2002.

  
JAMES B. MORAN  
Senior Judge, U. S. District Court